



General Assembly

Substitute Bill No. 6679

January Session, 2003

AN ACT CONCERNING COMPENSATION FOR SMALLPOX VACCINE INJURIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) For purposes of sections 1 to
2 4, inclusive, of this act:

3 (1) "Administration of a covered countermeasure" includes, but is
4 not limited to, the physical administration of a covered
5 countermeasure, education and screening of covered countermeasure
6 recipients, monitoring, management and care of the covered
7 countermeasure site, evaluation of the efficacy of covered
8 countermeasures, and contact transmission of vaccinia;

9 (2) "Covered countermeasure" has the same meaning as provided in
10 42 USC 233, as from time to time amended; and

11 (3) "Qualified person" has the same meaning as provided in 42 USC
12 233, as from time to time amended.

13 Sec. 2. (NEW) (*Effective from passage*) (a) In response to the
14 declaration issued on January 24, 2003, by the Secretary of Health and
15 Human Services pursuant to Section 304 of the Homeland Security
16 Act, P.L. 107-296, there is established a Connecticut Public Health
17 Smallpox Response Team that shall be responsible for administering a
18 covered countermeasure to persons in this state who choose to receive

19 a covered countermeasure in the event the Secretary of Health and
20 Human Services advises a state-wide administration of a covered
21 countermeasure pursuant to Section 304 of the Homeland Security Act,
22 P.L. 107-296. Such team shall consist of (1) individuals who voluntarily
23 receive a covered countermeasure, (2) qualified persons, and (3)
24 entities including, but not limited to, hospitals, under whose auspices
25 covered countermeasures are administered.

26 (b) The Commissioner of Public Health shall designate, in writing,
27 the members of the Connecticut Public Health Smallpox Response
28 Team and maintain a list of the individuals and entities that are
29 members of said team. Such individuals shall be designated prior to
30 receiving a covered countermeasure, except that those individuals who
31 received a covered countermeasure prior to the effective date of this
32 section shall be deemed to have been placed on such list prior to
33 receiving the covered countermeasure.

34 (c) Any incidence of illness, injury, disability or death directly or
35 indirectly resulting from the administration of a covered
36 countermeasure shall be reported by any person licensed pursuant to
37 chapter 370, 378, 379, 384 or 384d of the general statutes, or by any
38 institution licensed pursuant to section 19a-490 of the general statutes,
39 to the Department of Public Health. On or before July 1, 2003, October
40 1, 2003, January 1, 2004, and April 1, 2004, the department shall submit
41 a report, in accordance with section 11-4a of the general statutes,
42 summarizing such incidences to the joint standing committee of the
43 General Assembly having cognizance of matters relating to public
44 health, provided said report shall be in compliance with the Health
45 Insurance Portability and Accountability Act of 1996, 42 USC 1320d,
46 and shall not disclose the names of individuals who experience illness,
47 injury, disability or death. The department shall submit a complete
48 report in the same manner upon completion of the first stage of the
49 administration of a covered countermeasure.

50 (d) The Department of Public Health shall provide public notice of
51 the medical protocols proposed to set minimum safety standards for

52 the administration of covered countermeasures in the state. The
53 department shall allow for public comment on such protocols, and
54 shall consider and respond to such comment. If changes are made to
55 the protocols after their adoption, the department shall publicize the
56 proposed changes and accept public comment on such changes.

57 Sec. 3. (NEW) (*Effective from passage*) No individual or entity that (1)
58 is a member of the Connecticut Public Health Smallpox Response
59 Team, and (2) administers or receives a covered countermeasure, or
60 under whose auspices a covered countermeasure is administered or
61 received in accordance with a declaration issued pursuant to Section
62 304 of the Homeland Security Act, P.L. 107-296, shall be personally
63 liable for any injury, illness, disability or death occurring to an
64 individual that arises from the administration or receipt of the covered
65 countermeasure, unless such administration or reception is wanton,
66 reckless or malicious. To the extent permitted by the Homeland
67 Security Act, P.L. 107-296, any person having a complaint for such
68 injury, illness, disability or death may present it as a claim against the
69 state in accordance with the provisions of chapter 53 of the general
70 statutes.

71 Sec. 4. (NEW) (*Effective from passage*) (a) For purposes of this section,
72 "employer" and "employee" shall have the same meaning as in section
73 31-275 of the general statutes.

74 (b) Notwithstanding any provision of chapter 568 of the general
75 statutes, for any employee who (1) is covered by an approved workers'
76 compensation plan, and (2) either (A) has received a covered
77 countermeasure as a member of the Connecticut Public Health
78 Smallpox Response Team established pursuant to section 2 of this act,
79 or (B) is or was employed by the same employer at the same time as a
80 member in subparagraph (A) of this subdivision, and had exposure to
81 such member, there shall be an irrebuttable presumption that any
82 injury, illness, disability or death of any employee as the result of
83 receiving a covered countermeasure or a secondary transmission of a
84 covered countermeasure, occurred while such employee acted within

85 the scope of such employee's employment.

86 (c) Any individual who (1) is not covered by an employer's workers'
87 compensation plan, (2) either (A) has received a covered
88 countermeasure as a member of the Connecticut Public Health
89 Smallpox Response Team established pursuant to section 2 of this act,
90 or (B) had exposure to a member in subparagraph (A) of this
91 subdivision, and (3) experiences injury, illness, disability or death as
92 the result of receiving a covered countermeasure or a secondary
93 transmission of a covered countermeasure, shall be deemed to be a
94 state employee in the unclassified service and there shall be an
95 irrebuttable presumption that such injury, illness, disability or death
96 occurred while such individual was so deemed. Such individual shall
97 be eligible for compensation pursuant to chapter 568 of the general
98 statutes for such injury, illness, disability or death, provided a claim
99 shall be made, in writing, to the workers' compensation commissioner
100 for the district in which the claimant resides or resided within one year
101 from the first manifestation of a symptom. The workers' compensation
102 commissioner shall determine the amount of weekly benefit consistent
103 with chapter 568 of the general statutes, for which such individual may
104 be eligible, except such individual shall not receive less than the
105 minimum weekly wage as determined by the Labor Commissioner for
106 a forty-hour workweek. The workers' compensation commissioner
107 shall determine the length of eligibility for such weekly benefit,
108 consistent with the provisions of chapter 568 of the general statutes.

109 (d) Notwithstanding any provision of chapter 568 of the general
110 statutes, receipt of workers' compensation benefits pursuant to this
111 section shall not bar an individual from seeking or obtaining
112 compensation pursuant to the federal Tort Claims Act, as provided in
113 Section 304 of the Homeland Security Act, P.L. 107-296.

114 Sec. 5. (NEW) (*Effective from passage*) Each individual health
115 insurance policy providing coverage of the type specified in
116 subdivisions (1), (2), (4), (5), (11) and (12) of section 38a-469 of the
117 general statutes, delivered, issued for delivery, amended, renewed or

118 continued in this state on or after the effective date of this section, shall
 119 provide coverage for any adverse health events that occur as the result
 120 of receiving a smallpox vaccination or acquiring vaccinia virus
 121 infection through contact with a smallpox vaccinee.

122 Sec. 6. (NEW) (*Effective from passage*) Each group health insurance
 123 policy providing coverage of the type specified in subdivisions (1), (2),
 124 (4), (5), (11) and (12) of section 38a-469 of the general statutes,
 125 delivered, issued for delivery, amended, renewed or continued in this
 126 state on or after the effective date of this section, shall provide
 127 coverage for any adverse health events that occur as the result of
 128 receiving a smallpox vaccination or acquiring vaccinia virus infection
 129 through contact with a smallpox vaccinee.

130 Sec. 7. (NEW) (*Effective from passage*) The Department of Public
 131 Health, in consultation with the Attorney General and the Workers'
 132 Compensation Commission, shall develop, no later than thirty days
 133 after the effective date of this section, informational materials
 134 explaining the protections provided in the Homeland Security Act,
 135 P.L. 107-296 and in sections 1 to 6, inclusive, of this act, for individuals
 136 who (1) receive a covered countermeasure, or (2) receive a covered
 137 countermeasure due to a secondary transmission. The department
 138 shall distribute such materials to any individual prior to such
 139 individual receiving a covered countermeasure. The department shall
 140 also provide such materials to each individual who received a covered
 141 countermeasure prior to the date thirty days after the effective date of
 142 this section.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>

PH *Joint Favorable Subst.*

JUD *Joint Favorable*

APP *Joint Favorable*